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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,550	06/30/2003	Ben Smith	0026-0027	7373

44989 7590 05/04/2007
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EXAMINER

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ART UNIT PAPER NUMBER

2109

MAIL DATE DELIVERY MODE

05/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/608,550

Applicant(s)

SMITH ET AL.

Examiner

Sulaiman Nooristany

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 6 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

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Detailed Action

1. This Office Action is response to the application files on 30 June 2003.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless-

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 6, 9-13, 15-21 and 23-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Ishikawa. U.S. Patent Application Publication No. US 2001/0037314.

4. Regarding claim 1 and 16, Ishikawa teaches and describes wherein a method for detecting spam (method for differentiating between fraudulently generated clicks on an advertisement [0013], the user identification code does not match the user info, the entry recorded in a predefined database such as spam system [0016], an expired confirmation code alert the merchant to potentially fraudulent activity and disregard illegal spamming [0017], incentive for the spamming as a method of advertising is virtually eliminated [0019]) comprises:

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Identifying normal users visiting a website; (linking to a merchant's web site via the adviser link, the confirmation code comprises as advertising's identification code and dynamically generated user identification [0014]); and determining an occurrence of spamming on the web site based at least in part on the identified normal users (if the user identification code does not match the user info, the entry recorded in a predefined database such as spam system [0016][0052], an expired confirmation code alert the merchant to potentially fraudulent activity and disregard illegal spamming [0017]).

5. Regarding claim 2, Ishikawa teaches and describes wherein the method of claim 1, wherein the identifying normal users includes:

tracking activities of users visiting the web site (when an advertising link is loaded onto a user's computer, a confirmation code is generated user information generated with standard transmission protocol [0015], upon receipt of request for information from the user, the merchant compares the current user information to aspect of the confirmation code, namely, the user identification code at the time the advertisement link was loaded [0016], the plurality of databases comprises a valid response "authentic or legitimate click" and invalid response "fraudulently" where merchant can monitor particular advertiser [0047]).

6. Regarding claim 3, Ishikawa teaches and describes wherein the method of claim 2 wherein the tacking activities includes:

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determining whether the users load images (upon receipt of request for information from the user, the merchant compares the current user information to aspect of the confirmation code, namely, the user identification code at the time the advertisement link was loaded [0016], the internet environment, the provider computer is controlled by suitable software to response to a valid request for the content by providing "downloading" data in the form of one or more HTML files to the user computer [0031], the identifying indicia generator generates the user identification at the time that the advertisement or link is displayed or loaded onto the user's computer [0044] and Fig. 3).

7. Regarding claim 6, Ishikawa teaches and describes wherein the method of claim 2 wherein the tracking activities includes:

determining an interval at which each of the users visit the website (the identifying indicia generator generates the user identification at the time that the advertisement or link is displayed onto the user's computer [0044], the known user data identifies the user IP address, any other type of data that can be used to identify the user are including cookie, time stamp [0050], a time stamp that reflects an unusual length of time between the presentation of the advertising link and the response to the advertisement [0055]).

8. Regarding claim 9 and 10, Ishikawa teaches and describes that the method of claim 1 wherein each of the users is associated with a cookie identifier (the known user

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data identifies the user IP address, any other type of data that can be used to identify the user are including cookie, time stamp [0050], and

Wherein the identifier normal users (linking to a merchant's web site via the adviser link, the confirmation code comprises as advertising's identification code and dynamically generated user identification [0014]) includes:

Identifying normal users based at least in part on an age of the cookie (any type of data that can be used to identify the user are including cookie, time stamp [0050], the merchant can ascertain the length of time between the presentation of the advertisement link to the user and response to the user [0055]).

9. Regarding claim 11, Ishikawa teaches and describes that the method of claim 1 wherein each of the users is associated with a network address (IP address, [0044]), and

Wherein the identifying normal users includes:

Identifying the normal users based at least in part on the network addresses associated with the users (known user data that identifies the user's IP address [0050], known IP address of the user [0051], user IP address and user identification contained within the confirmation code [0053]).

10. Regarding claim 12, Ishikawa teaches wherein the website includes at least on advertisement (currently portion of advertisement are presented to users via banner on the web pages [0003]), and

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Wherein the determining an occurrence of spamming (if the user identification code does not match the user info, the entry recorded in a predefined database such as spam system [0016][0052], an expired confirmation code alert the merchant to potentially fraudulent activity and disregard illegal spamming [0017]) includes:

Determining a click rate of at least one advertisement for the identified normal users (the plurality of databases comprises a valid response "authentic or legitimate click" and invalid response "fraudulently" where merchant can monitor particular advertiser is inappropriately marketing the product or service [0047], count of the clicks [0010], and

Determining that at least one advertisement has been spammed when the clicks rate of users visiting the website exceeds the determined click rate for the identified normal users (the merchant counting the number of clicks on the advertisement, if the clicks on the advertisement are result of advertiser fraud such as "bulk emails" [0012], (the plurality of databases comprises a valid response authentic or legitimate clicks, or genuine interest in the advertised data. Invalid response represent clicks on the advertisement that are deemed to be generated "fraudulently", where merchant can monitor particular advertiser is inappropriately marketing the product or service [0047])).

11. Regarding claim 13, Ishikawa teaches wherein the method of claim 12 wherein the click rate includes a range of click rates (in tradition advertisement modalities, as both advertiser and merchant can approximate the potential audience size, the fee is

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typically fixed. In contrast, fee per click payment method provide greater incentive for advertiser [0009]).

12. Regarding claim 15, Ishikawa teaches wherein the determining includes: determining an occurrence of spamming of at least one advertisement on the web site, and

wherein the method further comprises:

providing a refund in repose to determining that the at least one advertisement has been spammed (request for advertisement accompanies by a expired conformation codes are entered into a spam system database and advertiser is not paid for suspected click [0019], the plurality of databases comprises a valid response "authentic or legitimate click" and invalid response "fraudulently" where merchant can monitor particular advertiser [0047], once the information recorded in the advertiser's log, the entry passed to an accounting management system which track the amount of remuneration owed to each adviser [0052]).

13. In claim 17, Ishikawa teaches a computer-readable medium containing instructions for controlling at lease one processor to perform a method for detecting click spamming (fraudulently generated click [0013], spam system [0016], validity of the click [0017], spamming as a method [0019] and Fig. 4(42)) of an advertisement on a server, the method (Fig. 1(10), hardware [0027] server [0028], network system either server computer or user computer [0029], provider computer or server [0030], suitable

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server[0031]) comprising: determining a number of normal users accessing the server; (Fig. 4(42), [0043], uniquely identifier [0044]) determining a percentage of the normal users clicking the advertisement when the advertisement is displayed to the normal users (identifying indicia generator [0044]); and determining whether the advertisement has been click spammed based at least in part on the determined percentage (legitimate clicks or fraudulently clicks [0047], identification and the IP address match, [0053], [0054]).

14. Regarding claim 18, Ishikawa teaches a server (Fig. 1(10), Fig. 2(20)) comprising: a memory configured to store at least one advertisement (stored [0030]; and a processor configured (processor [0030]) to cause the at least one advertisement to be displayed (data interface [0041], displayed [0044], Fig. 3(22)), determining a number of normal users accessing the server (identifying indicia [0043], user identification, IP address [0044], Fig. 4 (48)), determine a percentage of the normal users clicking at least one advertisement (user identification code[0044]), and determine whether the advertisement has been click spammed based at least in part on the determined percentage (legitimate clicks or fraudulently clicks [0047], identification and the IP address match, [0053], [0054]).

15. Regarding claim 19, Ishikawa teaches wherein a method determining whether an item on a web site has been click spammed (method for differentiating between fraudulently generated clicks on an advertisement [0013], the user identification code

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does not match the user info, the entry recorded in a predefined database such as spam system [0016], an expired confirmation code alert the merchant to potentially fraudulent activity and disregard illegal spamming [0017], incentive for the spamming as a method of advertising is virtually eliminated [0019]) comprises:

identifying a group of normal users visiting the web site (Identifying normal users visiting a website; (linking to a merchant's web site via the adviser link, the confirmation code comprises as advertising's identification code and dynamically generated user identification [0014]), comprising:

determining a click rate of the item for the group of normal users (the merchant counting the number of clicks on the advertisement, if the clicks on the advertisement are result of advertiser fraud such as "bulk emails" [0012], (the plurality of databases comprises a valid response authentic or legitimate clicks, or genuine interest in the advertised data. Invalid response represent clicks on the advertisement that are deemed to be generated "fraudulently", where merchant can monitor particular advertiser is inappropriately marketing the product or service [0047]; and

determining whether the item has been click spammed based at least in part on the determined click rate for the normal users (if the user identification code does not match the user info, the entry recorded in a predefined database such as spam system [0016][0052]).

16. Regarding claim 20, Ishikawa teaches wherein the method of claim 19 further comprising:

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determining a total number of user visiting the web site (Identifying normal users visiting a website; (linking to a merchant's web site via the adviser link, the confirmation code comprises as advertising's identification code and dynamically generated user identification [0014]), and

Wherein the determining whether the item has been click spammed (the merchant counting the number of clicks on the advertisement, if the clicks on the advertisement are result of advertiser fraud such as "bulk emails" [0012], method for differentiating between fraudulently generated clicks on an advertisement [0013], the user identification code does not match the user info, the entry recorded in a predefined database such as spam system [0016], an expired confirmation code alert the merchant to potentially fraudulent activity and disregard illegal spamming [0017], incentive for the spamming as a method of advertising is virtually eliminated [0019]) comprises:

comparing the determined click rate for the normal users to a click rate for the total number of users visiting the web site (the plurality of databases comprises a valid response authentic or legitimate clicks, or genuine interest in the advertised data. Invalid response represent clicks on the advertisement that are deemed to be generated "fraudulently", where merchant can monitor particular advertiser is inappropriately marketing the product or service [0047], and

determining that the item has been click spammed when the click rate for the total number of users exceeds the determined click rate the normal users (advertiser fraud through the generation of fraudulent clicks. Fee per click payment method provide greater incentive for advertiser [0009], spamming as a method [0019],

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legitimate/fraudulently click [0047], once the information recorded in the advertiser's log, the entry passed to an accounting management system which track the amount of remuneration owed to each adviser [0052]).

17. Regarding claim 21, Ishikawa teaches wherein the identifying includes: tracking an activity of users visiting the web site (when an advertising link is loaded onto a user's computer, a confirmation code is generated user information generated with standard transmission protocol [0015], upon receipt of request for information from the user, the merchant compares the current user information to aspect of the confirmation code, namely, the user identification code at the time the advertisement link was loaded [0016], the plurality of databases comprises a valid response "authentic or legitimate click" and invalid response "fraudulently" where merchant can monitor particular advertiser [0047]).

and

identifying the group of normal users based at least in part on the tracking activity (cookie, user IP address [0050], database, user identification [0051]).

18. Regarding claim 23, Ishikawa teaches wherein the method of claim of 19 further comprising:

taking remedial measures in response to determining that the item has been click spammed (the plurality of databases comprises a valid response "authentic or legitimate

click" and invalid response "fraudulently" where merchant can monitor particular advertiser [0047], recorded in an database, user identification [0052]).

Regarding claim 24, Ishikawa teaches wherein the determining a click rate of the item for the group of normal users includes: estimating a percentage of normal users visiting the web site (valid, legitimate click [0047]), and setting a percentage of clicks of the item from normal users to approximately equal the estimated percentage (both advertiser and the merchant can approximate the potential audience size [0009], monitor advertiser [0047]).

Regarding claim 25, Ishikawa teaches the determining whether the item has been click spammed includes: determining whether an actual click rate of the item for the group of normal users differs from the set click rate (both advertiser and the merchant can approximate the potential audience size [0009], invalid click, valid or legitimate click [0047], IP address match [0053], click by true user [0054]).

19. Regarding claim 26, Ishikawa teaches wherein the determining a click rate of item includes:

determining different click rates of the item for the group of normal users, the different click rates corresponding to different time period (user code will reflect stale information that was generated prior to the time the advertisement was copied into the email [0054], time stamp [0055]).

20. Regarding claim 27, Ishikawa teaches wherein the different time period includes different times for a day or week (Date and Time, [0050]).

21. Regarding claim 28, Ishikawa teaches wherein the different time period includes different month of a year (Date, [0050]).

22. Regarding claim 29, Ishikawa teaches wherein a computer-readable medium containing instruction for controlling at least one processor to perform a method for detecting a spamming of an advertisement displayed by a server (method (Fig. 1(10), hardware [0027] server [0028], network system either server computer or user computer [0029], provider computer or server [0030], suitable server [0031]) the method comprising:

identifying normal users visiting the server Fig. 4(42), [0043], uniquely identifier [0044]);

determining a click rate of the advertisement for the normal users (uniquely identifier [0044], valid, legitimate click [0047], IP address match [0053], click by true user [0054]); and

determining whether the advertisement has been spammed based at least in part on the determined click rate for the normal users (valid, legitimate click [0047], IP address match [0053], click by true user [0054]).

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23. Regarding claim 30, Ishikawa teaches a server Fig. 1(10), Fig. 2(20)) comprising a memory configured to store at least one item (stored [0030]); and a processor configured (processor [0030]) to cause the at least one item to be displayed ([0041], [0044], Fig. 3), identify a number of normal users accessing the server, (data interface [0041], displayed [0044], Fig. 3(22)), compare the number of normal users to a total number of users to obtain a percentage (unqualified consumer, that is a consumer who is not likely to purchase the goods of services, may click on the advertisement from curiosity [0008], user identifier [0050], [0051], database [0052]), set a click rate of at least one item based at least in part on the percentage, and determine whether at least one item has been click spammed based at least in part on the click rate (legitimate click [0047], user identification is extracted from advertiser's identification [0051], database [0052]).

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

25. Claims 4-5, 7-8, 14, 22, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ishikawa**. U.S. Patent Application Publication No. **US 2001/0037314**. in view of **Williams** U.S. Patent Application No. **US 2001/0054029**.

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26. In claim 4, Ishikawa teaches the method of claim 2 wherein the tracking activities (user identification code [0016], monitor [0047], cookie, user's IP address [0050], known IP address [0051], spam system database [0052]) including:

With respect to claim 4, Ishikawa teaches the invention set forth above except for the claimed "determining whether the users have javascript turned on". Williams teaches that it is well known to have javascript (Page.1, [0010]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikawa's invention by using Javascript where a web page as it is used herein is not mean to limit the type of documents and application that can be used to interact with the users (as taught by Williams).

27. In claims 5 and 8, Ishikawa teaches the tracking activities (user identification code [0016], monitor [0047], cookie, user's IP address [0050], known IP address [0051], spam system database [0052]) including:

With respect to claim 5 and 8, Ishikawa teaches the invention set forth above except for the claimed determining a type of browser used by the users. Williams teaches that it is well known to determine a type of browser used by the users (Page. 3, message may contain an identifier such as an internet protocol address, a cookie, or another identifier [0022], a system could be used to maintain a common background image on client computer browser even as the user surfs to various websites [0023]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a system is called cookies, in which the data files are stored in on the

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users machine to record a history of web pages visited or surfed (as taught by Williams).

28. In claim 7, Ishikawa teaches the web site is a search engine (monitor [0047], cookie, user's IP address [0050], known IP address [0051]) including:

With respect to claim 7, Ishikawa teaches the invention set forth above except for the claimed determining a type of items for which searches are performed by users. Williams teaches that it is well known to determine of a type of items which searches are performed by the users (Page. 3, from observation of cookies, database information [0022]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikawa's invention by using a system called cookies, in which the data files are stored in on the users machine to record a history of their activities for internet surfing (as taught by Williams).

29. In claim 14, Ishikawa teaches the web site includes at least one advertisement, wherein the identifying includes: determining a percentage of a number of users visiting the web site in a time period that are normal users (namely the user identification code generated dynamically at the time the advertising link clicked or loaded onto the user computer [0016], merchant placing the advertisement can verify the validity of the click [0017], confirmation code alert the merchant to potentially fraudulent activity [0017]), and wherein determining an occurrence of spamming includes: estimating a percentage of normal users selecting at least on advertisement during the time period to be

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approximately of normal users visiting the web site during the time period (linking to a merchant's web site via the adviser link, the confirmation code comprises as advertising's identification code and dynamically generated user identification [0014], user identification code can be any indicia which uniquely identifies the users [0044]).

With respect to claim 14, Ishikawa teaches the invention set forth above except for the claimed determining that at least one advertisement has been spammed when an actual percentage of normal users selecting at least one advertisement during the time period is lower than the estimated percentage of normal users selecting at least one advertisement during the time period. Williams teaches that it is well known to determining that at least one advertisement has been spammed when an actual percentage of normal users selecting at least one advertisement during the time period is lower than the estimated percentage of normal users selecting at least one advertisement during the time period (Page.1, [0004]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a system that merchants could monitor their posted ads (banners) through the internet. Based on merchant report, viewers clicking on the ad to receive more information or purchase the product described have been relatively low to date (as taught by Williams).

30. In claim 22, Ishikawa teaches the tracking (a confirmation code is generated user information generated with standard transmission protocol [0015], current user information to aspect of the confirmation code, namely, the user identification code at the time the advertisement link was loaded [0016], the plurality of databases comprises

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a valid response "authentic or legitimate click" and invalid response "fraudulently" where merchant can monitor particular advertiser [0047]) includes determining, for each user, at least one of whether the user load images (load image [0016], [0031], [0014], [0044] and Fig. 3), an age of cookie associated with each other user (cookie, time stamp [0050], [0051], [0055]), and an interval at which user visited the web site (time, cookie [0050], [0055]).

With respect to claim 22, Ishikawa teaches the invention set forth above except for the claimed "whether the user has javascript turned on" and "a type of browser used by the user". Williams teaches that it is well known to whether the user has javascript turned on (javascript, Page.1, [0010]), a type of browser used by the user ([0022], [0023]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikawa's system by using Javascript where a web page as it used herein is not mean to limit the type of documents and application that can be used to interact with the users. (as taught by Williams).

31. In claim 31, Ishikawa teaches a method for identifying normal users visiting a web site (the confirmation code comprises as advertising's identification code and dynamically generated user identification [0014]), comprising tracking activities of users visiting the web site (confirmation code, [0015], [0016], valid/invalid click [0047]), the tracking including determining, for each user, at least one of whether the user load images (load, [0016], [0031], [0014], [0044] and Fig. 3), an age of cookie associated with each user (cookie [0050], [0051], [0055]), and an interval which the user visits the

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web site (time [0050], [0055]), identifying normal users based at least in part on the tracked activities ([0015], 0016], [0047]).

With respect to claim 31, Ishikawa teaches the invention set forth above except for the claimed "whether the user has javascript turned on" and "a type of browser used by the user". Williams teaches that it is well known to whether the user has javascript turned on (Page.1, [0010]), a type of browser used by the user ([0022], [0023]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ishikawa's system by using Javascript (Page.1, [0010]) where a web page as it used herein is not mean to limit the type of documents and application that can used to interact with the users (as taught by Williams).



JEFFREY PWU
SUPERVISORY PATENT EXAMINER

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sulaiman Nooristany whose telephone number is (571) 270-1929. The examiner can normally be reached on *M-F** from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Pwu, can be reached on (571) 272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sulaiman Nooristany